

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

HARLEY GREEN,

Plaintiff,

v.

WAL-MART STORES EAST, INC.

Defendant.

Docket No.: 1:20-cv- 117

Judge Thomas S. Kleeh

ELECTRONICALLY FILED Jun 18 2020 U.S. DISTRICT COURT Northern District of WV
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COMPLAINT

NOW COMES Harley Green, who for his Complaint against the Defendant, Wal-Mart Stores, Inc., states and avers as follows:

Jurisdiction and Venue

1. Upon information and belief, Wal-Mart Stores, Inc. ("Wal-Mart") is a retail trade business incorporated in the State of Delaware, with its principal place of business in the State of Arkansas.
2. Defendant Wal-Mart has numerous stores throughout the State of West Virginia, and conducts business within the State of West Virginia.
3. The Plaintiff, Harley Green, maintains his principal residence in Taylor County, Simpson, West Virginia.
4. Defendant Wal-Mart maintains a store located in Taylor County, Grafton, West Virginia.
5. On April 1, 2019, the Plaintiff, Harley Green, was a patron of the Wal-Mart store located in Grafton, West Virginia. On this date, Mr. Green lifted a box containing a Curt Class 3 Multi-Fit Trailer Hitch #13900 from its shelving. Upon lifting the box, the hitch ripped through packaging negligently maintained by Walmart and its employees and

subsequently fell directly on Mr. Green's foot, injuring his foot and knocking him to the ground where he struck his head and sustained serious and significant injuries.

6. Based on the foregoing, the United States District Court for the Northern District of West Virginia has personal and subject matter jurisdiction of the civil action initiated by this Complaint.

Count I – Negligence as to Defendant Wal-Mart

7. The Plaintiff incorporates each and every assertion and allegation in paragraphs one (1) through six (6) above as though fully rewritten herein, and the Plaintiff further alleges:
8. Wal-Mart and its employees who maintain the department in which this trailer hitch is stocked, owed the Plaintiff a duty of reasonable care. This duty includes ensuring items that are placed on shelves, particularly those like the subject trailer hitch given its exceptional weight, are safely packaged before being placed on the sales floor where customers will inevitably pick them up and move them.
9. Wal-Mart and its employees breached this duty by failing to maintain the items on their shelves, particularly those of exceptional weight like that of the subject trailer hitch, in reasonably safe packaging condition and creating a foreseeable risk of harm by placing a damaged and comprised box, containing a dangerously heavy item, on the sales floor without any warning to the customer.
10. As a result of Wal-Mart and its employees breaching its duty of reasonable care and failing to safely maintain the packaging of items on the sales floor, the Plaintiff, Harley Green, was struck in the foot by the falling trailer hitch, knocked to the ground, and suffered injuries to his head. .

WHEREFORE, The Plaintiff, Harley Green, requests relief from the Defendant Wal-Mart as follows:

- a. Compensatory damages for pain and suffering, emotional distress, inconvenience, loss of capacity to enjoy life, past medical expenses, future medical and life care expenses, and any other damages deemed appropriate by the Court in an amount to be determined by the Jury upon proper proof presented at trial;
- b. Pre-judgment and post-judgment interest;
- c. Such other general and specific relief as may be shown by the evidence in this case.

A TRIAL BY JURY IS DEMANDED ON ALL ISSUES.

**HARLEY GREEN, Plaintiff,
By Counsel,**

/s/ Dino S. Colombo
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